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Deferred Presentment Provider Industry and Interested Parties:

The Deferred Presentment Service Transactions Act (DPSTA), 2005 PA 244, MCL 487.2121 *et seq.* was amended effective August 24, 2016. The Sections specifically amended are Section 2, MCL 487.2122 and Section 35, MCL 487.2155.

Section 2, MCL 487.2122 of the DPSTA

*Subsection 1(c)* defines "closed" in connection with a deferred presentment transaction. The following italicized items have been added to the definition of "closed":

- (i) The check is redeemed by payment to the licensee of the face amount of the check in cash *or payment from a debit card that meets the requirements of Section 35(11)*. The payment method of debit card has been added. A debit card payment is treated the same as a cash payment. The transaction must be closed by 11:59 p.m. on the day the customer provides their debit card for payment. In rare cases, a debit card charge is disputed with the financial institution and returns unpaid or is reversed. The licensee cannot reopen the transaction due to the debit card payment being classified as a cash payment. A licensee is not required to accept debit card payments from customers.

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- (vi) *The check is collected by the licensee under Section 35(9) and the licensee has evidence that the person satisfied the obligation.* The licensee can collect funds by obtaining authorization for a Telephone-Initiated Entry (TEL) for checks that have returned unpaid. The transaction is considered closed when the face value of the check is paid utilizing a TEL ACH code and the licensee has evidence the automated clearing house payment (ACH) has cleared.

Section 35, MCL 487.2155 of the DPSTA

The following subsections have been added under Section 35:

*Subsection 7* states, in summary, a customer's check must be deposited on the maturity date if the customer has not redeemed the check or the check has not been satisfied by other means in accordance to Section 2(1)(c)(i) unless the customer has entered into a written repayment plan in compliance with Section 35(2). This is not a new requirement. Additional language was added in this Section to clearly state the licensee's responsibility regarding depositing checks.

*Subsection 8* states, in summary, the licensee must deposit the check held in connection with the deferred presentment service transaction when a customer fails to make a scheduled installment payment under a written repayment plan agreement. The check must be deposited or presented via

ACH when a customer defaults on any repayment plan installment. This is not a new requirement. Additional language was added in the Section to clearly state the licensee's responsibility regarding depositing checks under a repayment plan.

*Subsection 9 and Subsection 12* state, in summary, the licensee may collect on a returned check by means of one or more telephone-initiated entries (a debit transaction to a drawer's account that is processed through an ACH. This may only be done if the check held in connection with the transaction was deposited and returned unpaid. To complete a telephone-initiated entry the licensee must ensure:

- a) The drawer agrees to each telephone-initiated entry.
- b) Each telephone-initiated entry is a single, date-specific payment and does not authorize more than one payment or periodic payment.
- c) The drawer is not charged a fee in connection with the telephone-initiated entry or entries.

In addition, the licensee must also be in compliance with NACHA Operating Rules for executing telephone-initiated entries. For additional details, see the link below:

[www.nacha.org/news/telephone-initiated-tel-entries](http://www.nacha.org/news/telephone-initiated-tel-entries)

*Subsection 10* states, in summary, the licensee shall immediately return the check held in connection with the deferred presentment service transaction to the customer upon satisfying the obligation in person. In addition, if the customer does not satisfy the obligation in person but by paying by TEL ACH, the licensee must return the check to the drawer by mailing it to the address listed on the deferred presentment transaction service agreement within 1 business day after the licensee obtains evidence that the drawer has satisfied the obligation. The licensee must wait until the TEL ACH has cleared before returning the check to the customer.

*Subsection 11* states, in summary, a licensee shall only accept a payment by debit card to redeem a check the licensee is holding if the customer certifies the debit card draws funds from the same account on which the check is drawn. In order to demonstrate compliance, the licensee must obtain a signed attestation from the customer in which the customer certifies the debit card draws funds from the same account on which the check was drawn. This attestation must be maintained with the deferred presentment service agreement in accordance with Section 39(1).

Licensees should consult with their legal counsel to determine how these amendments impact their business practices.

Sincerely,

/s/

Mark W. Weigold, Director  
Consumer Finance Section